

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JOSEPH TEZENO, §
§
Plaintiff, §
§
v. § CIVIL ACTION NO. H-06-0608
§
TEXAS DEPARTMENT OF §
CRIMINAL JUSTICE, §
§
Defendant. §

ORDER OF DISMISSAL

Former state inmate Joseph Tezeno filed this suit under 42 U.S.C. § 1983, alleging violations of his civil rights while he was incarcerated. The Court entered an order on February 28, 2006, granting Tezeno leave to pay the filing fee in \$5.00 installments before the end of each month, beginning in March 2006, until the entire fee (\$250.00) was paid. That order warned Tezeno that any “[f]ailure to pay as directed may result in a dismissal of the plaintiff’s complaint without further notice under Rule 41(b) of the Federal Rules of Civil Procedure.” (Doc. #4). The record reflects that, on March 13, 2006, Tezeno made one installment payment of \$5.00 as directed. Since then, the plaintiff has neither objected to the Court’s order, nor otherwise attempted to comply.

The plaintiff’s failure to pursue this action forces the Court to conclude that he lacks due diligence. Therefore, under the inherent powers necessarily vested in a district court to manage its own affairs, this Court determines that dismissal for want of prosecution is appropriate. *See FED. R. CIV. P. 41(b); see also Larson v. Scott, 157 F.3d 1030 (5th Cir.*

1998) (noting that a district court may dismiss an action *sua sponte* for failure to prosecute or to comply with any court order). The plaintiff is advised, however, that relief from this order may be granted in accordance with Rule 60(b) of the Federal Rules of Civil Procedure if a proper showing is made.

Accordingly, it is **ORDERED** that this action is **DISMISSED** without prejudice for want of prosecution.

The Clerk of Court will send a copy of this order to the parties.

SIGNED at Houston, Texas, on **May 19, 2006**.



Nancy F. Atlas
Nancy F. Atlas
United States District Judge